

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEVARON EDNARDO HOLLAND,

Defendant-Appellant.

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UNPUBLISHED

August 17, 2004

No. 246923

Wayne Circuit Court

LC No. 01-010977

Before: Hoekstra, P.J., and Cooper and Kelly, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from direct or circumstantial evidence in the record. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990). A trial court's findings of fact are reviewed for clear error. MCR 2.613(C).

The offense of possession with intent to deliver less than fifty grams of cocaine requires proof of four elements: (1) the substance was cocaine; (2) the cocaine was in a mixture weighing less than fifty grams; (3) the defendant was not authorized to possess the cocaine; and (4) the defendant knowingly possessed the cocaine with intent to deliver it. *People v Lewis*, 178 Mich App 464, 468; 444 NW2d 194 (1989).

Possession of a controlled substance exists when a defendant has dominion or control over the substance with knowledge of its possession or character. *People v Nunez*, 242 Mich App 610, 615; 619 NW2d 550 (2000). Possession of a controlled substance may be actual or constructive. Mere presence is insufficient. Some additional link between the defendant and the controlled substance must be shown. Circumstantial evidence and reasonable inferences drawn from the evidence are sufficient to prove possession. *People v Fetterley*, 229 Mich App 511, 515; 583 NW2d 199 (1998).

Defendant argues that the evidence was insufficient to support his conviction because it did not establish that he knowingly possessed the cocaine. We disagree and affirm. Defendant owned the multi-unit building, and was discovered alone in the unit in which the search was conducted. Defendant asserted that another person had lived in the unit for nine months; however, documents, including tax records, linking him to that unit were found in close proximity to the cocaine. The cocaine was found in a boot that was not the size defendant wore. The trial court correctly noted, however, that this fact did not mandate a conclusion that someone other than defendant put the cocaine in the boot. *Vaughn, supra*; MCR 2.613(C). The evidence that defendant was alone in the unit at night when the police arrived, that documents linking defendant were found in close proximity to the cocaine, and that defendant had a large amount of currency on his person supported an inference that defendant had possession of the cocaine and knowledge of its character. *Nunez, supra*; *Fetterley, supra*. The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction. *Petrella, supra*.

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Jessica R. Cooper  
/s/ Kirsten Frank Kelly